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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

10 Cleopatra Martinez,
11 Plaintiff

12 || vs.

13 Maricopa County Community College
14 District, a political subdivision of the
15 State, and Rufus Glasper and Debra
Glasper, husband and wife.

16 || Defendants.

No. CV 15-01759 NVW

**STATEMENT OF MATERIAL
FACTS IN SUPPORT OF
PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

18 Plaintiff Cleopatra Martinez (“Martinez”) submits the following Statement of
19 Material Facts in support of her Motion for Summary Judgment.

STATEMENT OF MATERIAL FACTS

21 1. Martinez began her employment as a full-time mathematics professor with
22 MCCCD in 1985, and has taught at MCCCD's Phoenix College campus since 1995.
23 [Deposition of Dr. Cleopatra Martinez on August 16, 2016 ("Martinez Depo. Vol. I") at
24 17:19-19:13, attached hereto as Exhibit 1].

25 2. MCCCD is a political subdivision of the State of Arizona. [Plaintiff's
26 Verified Amended Complaint, ¶2; Defendants' Answer to Plaintiff's Verified Amended
27 Complaint at ¶2].

1 3. On August 9, 2013, Glasper, who, at relevant times, was MCCCD's
 2 Chancellor, issued Martinez a notice, copied to MCCCD's Governing Board, of
 3 MCCCD's intent to dismiss Martinez from her employment. [Deposition of Dr. Rufus
 4 Glasper ("Gasper Depo.") at 6:21-7:5, 10:10-11:9 and Glasper Depo. Exhibit 3 (August
 5 9, 2013 Notice of Dismissal and Statement of Charges) at page 1 of 4, attached hereto as
 6 Exhibit 2].

7 4. Gasper was MCCCD's Chancellor from 2003 until the end of February
 8 2016. [Gasper Depo. at 6:21-7:5, 65:11-24, attached hereto as Exhibit 2].

9 5. In the notice, Glasper wrote that Interim Vice Chancellor of Human
 10 Resources James Bower had reviewed the charges against Martinez, in consultation
 11 with the MCCCD Legal Office, and recommended to Glasper that there existed *prima*
 12 *facie* cause for Martinez's dismissal. [Gasper Depo. at 10:10-11:9 and Glasper Depo.
 13 Exhibit 3 (August 9, 2013 Notice of Dismissal and Statement of Charges) at page 1 of 4,
 14 attached hereto as Exhibit 2].

15 6. Gasper further wrote that he concurred with Bower's recommendation.
 16 [Id.].

17 7. Included with the notice, was a "Statement of Charges," in which it was
 18 alleged that Martinez had engaged in the following:

- 19 • Violation of Administrative Regulation 6.7.1 – 'Willful and
 20 Intentional violation of any state or federal law, applicable
 21 ordinance, MCCCD Governing Board policy, or MCCCD
 22 administrative regulation that affects the employee's ability to
 23 perform his or her job,' specifically:
 - 24 ○ Violation of MCCCD's cash handling rules as covered by
 25 MCCCD Administrative Regulations 1.17.
- 26 • Violation of Residential Faculty Policy Manual 3.2.4 – 'A Faculty
 27 member shall not have any financial interest in or receive
 28 compensation from the sale of any unpublished instructional
 29 materials required or suggested for a class that the Faculty member
 30 teaches.'

- 1 • Violation of U.S. Copyright Law and fair use guidelines, and
2 MCCCD Administrative Regulations 3.2.4 and 3.2.5 regarding
3 copyright regulations:
4 ○ 3.2.4 Employees are prohibited from copying materials not
5 specifically allowed by the (1) copyright Law, (2) fair use
6 guidelines, (3) Licenses or contractual agreements, or (4)
7 other permission.
8 ○ 3.2.5 The Governing Board disapproves of unauthorized
9 duplication in any form. Employees who willfully disregard
10 this Board policy and/or the aforementioned copyright
11 guidelines do so at their own risk and assume all liability for
12 their actions.
13 • Violation of Administrative Regulation 6.7.3 – ‘Willful and
14 intentional failure to perform job duties that have first been
15 communicated to an employee and are within the employee’s scope
16 of employment,’ specifically, repeated failure to follow instructions
17 regarding printing/copying of unauthorized materials, failure to use
18 only approved course materials, unauthorized copying and sale of
19 course materials, failure to reimburse students for the materials
20 your wrongfully charged them for, and failure to meet the deadline
21 to provide copies of any reimbursement checks to students.

17 Brief Timeline:

- 18 • January 2010 – College Vice Presidents Ronnie Elliott, Paul
19 DeRose and Cassandra Kakar; along with Maggie McConnell;
20 Assistant General Counsel, reviewed the requirements of AR 3.2
21 with you at length.
- 22 • April 2, 2010 – Anna Solley, Phoenix College President, notified
23 you that your copying privileges at the Phoenix College IKON
24 Copy Center were suspended.
- 25 • Spring 2010 – An Administrative Evaluation was initiated based on
26 Mr. Joe Sueyoshi's complaint. By agreement, the Evaluation Team
27 did not undertake its task until the fall semester. The findings and
28 recommendations were submitted to Dr. Solley on November 17,
29 2010. The overall findings included:

- Copyright and plagiarism: Dr. Martinez was notified in writing and in meetings of MCCCD's and Phoenix College's concerns regarding her course materials violating copyright, fair use, and plagiarism laws.
- Insubordination: Dr. Martinez failed to follow Dr. Solley's and MCCCD's Legal Counsel's directives - specifically, she repeatedly requested copies, copied and printed unauthorized materials.
- December 9, 2010 – Dr. Solley administered an Initial Corrective Action to you for insubordination and failure to follow instructions regarding printing or copying of unauthorized materials.
- August 21-23, 2012 – You told your MAT 091 and MAT 151 students not to buy the approved text that you listed on the syllabus. Instead, you made copies of a colleague's materials and sold them to your students for \$11 each.
- October 18, 2012 – A Second Corrective Action for insubordination and unauthorized copying and sale of course materials was administered to you by Dr. Solley. Included in the corrective action was the following directive: "Because you imposed charges on your students without authority to do so, you have the responsibility to reimburse the students from your own funds. You are hereby directed to do so by personal check, beginning immediately and continuing until all students who paid you are reimbursed."
- January 11, 2013 – Upon discovering that the students who bought your unauthorized course materials had yet to be reimbursed, Casandra Kakar directed you, via email, to provide her by January 18, 2013, with front and back copies of all cashed personal reimbursement checks to your students.
- January 18, 2013 – You failed to provide Dr. Kakar with copies of any reimbursement checks and neglected to contact her regarding the money you still owe the students.
- February 21, 2013 – A student turned in the MAT091 materials which you left in room B210. Timothy Bryan, Mathematics Faculty, has previously told you that you do not have permission to use his materials again.

28 || [Id.].

1 8. The allegations in the August 9, 2013 Statement of Charges are taken
2 verbatim from a March 20, 2013 Pre-Disciplinary Conference, which included copies of
3 the specific policies Martinez is alleged to have violated. [Martinez Depo. Vol. I at
4 47:2-17, Martinez Depo. Vol. I Exhibit 4 (March 20, 2013 Notice of Pre-Disciplinary
5 Conference with attachments) at MCCCD/Martinez02114- MCCCD/ Martinez 02120,
6 and a more legible copy of the March 20, 2013 Notice of Pre-Disciplinary Conference
7 with attachments, is attached hereto as Exhibit 1].

8 9. At the time Glasper sent Martinez the notice of intent to dismiss,
9 Martinez's employment relationship with MCCCD was governed by the 2012-2013
10 Residential Faculty Policies (the "RFP"), which indicates the rights of faculty members
11 with respect to various employment matters. [Gasper Depo. at 7:18-8:15, 13:15-14:3,
12 Glasper Depo. Errata Sheet at 14:3 and Glasper Depo. Exhibit 1 (2012-2013 RFP)
13 attached hereto as Exhibit 2; Deposition of Judy Castellanos ("Castellanos Depo.") at
14 14:8-11, attached hereto as Exhibit 3].

15 10. The RFP was "ratified" by, among others, Glasper and the MCCCD
16 Governing Board. [Gasper Depo. at 7:18-8:11 and Glasper Depo. Exhibit 1 (2012-
17 2013 RFP) at -52-, attached hereto as Exhibit 2].

18 11. Both the 2012-2013 RFP and the 2013-2014 Residential Faculty Policies
19 (the "2013-2014 RFP") are relevant in this case. [Gasper Depo. 13:24-14:3, Glasper
20 Depo. Errata Sheet at 14:3, attached hereto as Exhibit 2].

21 12. The 2013-2014 Residential Faculty Policies (the "2013-2014 RFP") were
22 approved by the Governing Board on September 24, 2013. [Gasper Depo. at 9:9-10:7
23 and Glasper Depo. Exhibit 2 (2013-2014 RFP) at MCCCD/Martinez00252, MCCCD/
24 Martinez00310 and MCCCD/Martinez00339, attached hereto as Exhibit 2].

25 13. Pursuant to RFP §§ 1.2. and 3.18.3.4., "Appointive" status refers to the
26 employment status of a faculty member attained at the beginning of his/her sixth
27 consecutive year. [Gasper Depo. at 7:20-8:2, 16:4-7 and Glasper Depo. Exhibit 1
28 (2012-2013 RFP) at -4- and -26-, attached hereto as Exhibit 2].

1 14. Appointive faculty members have continuous rights to employment.
2 [Glasper Depo. at 16:11-15, attached hereto as Exhibit 2].

3 15. At the time she received the notice of intent to dismiss, and at the time of
4 her suspension, Martinez had appointive status. [Glasper Depo. at 51:6-12, attached
5 hereto as Exhibit 2].

6 16. Pursuant to RFP § 3.11.2.: “No faculty member shall be disciplined,
7 reprimanded, suspended, or reduced in assignment or compensation without just cause.”
8 [Glasper Depo. at 7:18-8:15, 17:21-18:1, 21:18-21 and Glasper Depo. Exhibit 1 (2012-
9 2013 RFP) at -19-, attached hereto as Exhibit 2].

10 17. RFP § 3.11.2. was renumbered in 2013-2014 RFP as §6.3.2. [Glasper
11 Depo. at 9:7-14, 43:10-18 and Glasper Depo. Exhibit 2 (2013-2014 RFP) at
12 MCCCD/Martinez00304, attached hereto as Exhibit 2].

13 18. The term “disciplined” in this context includes terminations and
14 suspensions. [Glasper Depo. at 17:21-18:8, attached hereto as Exhibit 2].

15 19. Regarding *suspensions* of faculty members, RFP § 3.13.1. states, in
16 pertinent part: “Upon a written statement of charges formulated by the Chancellor,
17 charging a Faculty member of the MCCCD, the Chancellor, or his/her designee, may
18 immediately suspend the Faculty member and give notice of the suspension...” [Glasper
19 Depo. at 7:18-8:15 and Glasper Depo. Exhibit 1 (2012-2013 RFP) at -20-, attached
20 hereto as Exhibit 2].

21 20. Pursuant to RFP §3.13.3.:

22 Any Faculty member who has been suspended pursuant to this Section
23 will normally be paid his/her regular salary during the period of
24 suspension. A suspension without pay will occur only upon the advice of
25 General Counsel. If payment is to be withheld, the Vice Chancellor of
Human Resources will first consult and advise the member...

26 [Glasper Depo. at 7:18-8:15 and Glasper Depo. Exhibit 1 (2012-2013 RFP) at -20- thru
27 -21-, attached hereto as Exhibit 2].

28 21. Section 3.13. was renumbered in the 2013-2014 RFP as §3.11. [Glasper

1 Depo. at 7:18-8:15, 9:9-14, 24:8-10, Glasper Depo. Exhibit 1 (2012-2013 RFP) at -20-
 2 thru -21- and Glasper Depo. Exhibit 2 (2013-2014 RFP) at MCCC/Martinez00273,
 3 attached hereto as Exhibit 2].

4 22. Notably, this section does not allow the Vice-Chancellor of Human
 5 Resources to overturn the Chancellor's decision, and a suspended employee has no right
 6 to have the suspension reviewed by the Governing Board. [Gasper Depo. at 23:23-24:7,
 7 26:2-27:1, 66:11-14, attached hereto as Exhibit 2; Castellanos Depo. at 27:3-16, 31:9-
 8 32:5, attached hereto as Exhibit 3].

9 23. Regarding faculty member *dismissal*, RFP § 3.15. provides a detailed
 10 procedure that includes, in pertinent part, the right of a faculty member to receive a
 11 "written statement of charges" which sets forth "the statutes, policies, rules, or written
 12 objectives of the College that the Faculty member is alleged to have violated" with
 13 "such specificity that the Faculty member will be able to prepare a defense based on the
 14 statement" (RFP §§ 3.15.1. and 3.15.2.); the right to request a hearing "which shall
 15 suspend the dismissal procedure, pending the completion of the hearing." (RFP §
 16 3.15.3.); the right to have a Hearing Committee constituted to conduct a hearing
 17 regarding the allegations against the faculty member (RFP § 3.15.4.); and the right to
 18 attend the hearing, present testimony, evidence or statements, oral or written, in his/her
 19 behalf, and be represented by legal counsel or other representative (RFP § 3.15.6.).
 20 [Gasper Depo. at 7:18-8:2 and Glasper Depo. Exhibit 1 (2012-2013 RFP) at -21- thru -
 21 23-, attached hereto as Exhibit 2; Castellanos Depo. at 17:11-18:22, attached hereto as
 22 Exhibit 3].

23 24. After completion of the hearing, the Hearing Committee provides the
 24 Chancellor and the faculty member with a summary of the evidence that was presented
 25 during the hearing, renders "binding written findings of fact and conclusions of law"
 26 and forwards them along with its recommendation regarding dismissal to the
 27 Chancellor. (RFP § 3.15.7.). [Gasper Depo. at 7:18-8:2, 28:6-12, 29:7-11, Glasper
 28 Depo. Exhibit 1 at -21- thru -23-, attached hereto as Exhibit 2; Castellanos Depo. at

1 17:11-18:22, 22:8-18, attached hereto as Exhibit 3].

2 25. The Chancellor may meet with the Hearing Committee to clarify any
3 questions he/she may have; and may then adopt the Hearing Committee's
4 recommendation regarding dismissal or make his/her own recommendation and forward
5 the recommendation along with the summary of the evidence, a copy of the findings of
6 fact, conclusions of law, and final recommendation of the Hearing Committee to the
7 Governing Board. [Glasper Depo. at 7:18-8:2, 33:18-34:9 and Glasper Depo. Exhibit 1
8 (2012-2013 RFP) at -21- thru -23-, attached hereto as Exhibit 2; Castellanos Depo. at
9 17:11-18:22, attached hereto as Exhibit 3].

10 26. The Governing Board will meet with the Faculty member and/or his/her
11 representative and a representative of the administration to hear arguments regarding the
12 Chancellor's and the Hearing Committee's recommendation regarding dismissal.
13 [Glasper Depo. at 7:18-8:2, 33:18-34:9 and Glasper Depo. Exhibit 1 (2012-2013 RFP)
14 at -21- thru -23-, attached hereto as Exhibit 2; Castellanos Depo. at 17:11-18:22,
15 attached hereto as Exhibit 3].

16 27. The parties are to have no less than one-half hour to present their
17 respective cases. (RFP § 3.15.9.). [Glasper Depo. at 7:18-8:2 and Glasper Depo. Exhibit
18 1 (2012-2013 RFP) at -23-, attached hereto as Exhibit 2].

19 28. The Governing Board, at a public meeting, shall render a final decision for
20 the retention or dismissal of the Faculty member. [Glasper Depo. at 7:18-8:2 and
21 Glasper Depo. Exhibit 1 (2012-2013 RFP) at -23-, attached hereto as Exhibit 2;
22 Castellanos Depo. at 17:11-18:22, attached hereto as Exhibit 3].

23 29. Martinez exercised her right to an evidentiary hearing regarding the
24 allegations in the August 9, 2013 Statement of Charges, which was held on November
25 18, 2013. [Glasper Depo. at 27:1-7, 33:18-34:9, attached hereto as Exhibit 2; Martinez
26 Depo. Vol. I at 53:4-16, attached hereto as Exhibit 1].

27 30. On December 9, 2013, after considering the pleadings and evidence
28 presented at the hearing, including expert testimony, the Hearing Committee issued its

1 written Findings of Fact, Conclusions of Law, and Recommendation, in which it made
2 the following binding findings:

3 [Phoenix College] failed to carry its burden of proof relating to violation
4 of MCCCDS cash handling rules found in MCCCDS Administrative
5 Regulations 1.17, violation of Residential Policy Manual 3.2.4 (relating to
6 financial interests in unpublished materials), violation of U.S. Copyright
7 Law and fair use guidelines, and violation of MCCCDS Administrative
8 Regulations 3.2.4 and 3.2.5 related to copyright regulations.

9 [Glasper Depo. at 35:11-24 and Glasper Depo. Exhibit 5 (Hearing Committee Findings
10 of Fact, Conclusions of Law, and Recommendation) at -7-, attached hereto as Exhibit 2;
11 A more legible copy of the Hearing Committee Findings of Fact, Conclusions of Law,
12 and Recommendation is also at Bates Numbers MCCCDS/Martinez03845-03852,
13 attached hereto as Exhibit 4].

14 31. The Committee further found, however, that Martinez "willfully and
15 intentionally failed to follow instructions that were communicated to her when she
16 failed to issue refunds to students as directed by President Solley in violation of
17 MCCCDS Administrative Regulations 6.7.1. and 6.7.3. [Id.].

18 32. The Committee further recommended that the Governing Board deny the
19 termination request and allow Martinez to continue her MCCCDS employment [Glasper
20 Depo. at 35:11-24 and Glasper Depo. Exhibit 5 (Hearing Committee Findings of Fact,
21 Conclusions of Law, and Recommendation) at -8-, attached hereto as Exhibit 2; A more
22 legible copy of the Hearing Committee Findings of Fact, Conclusions of Law, and
23 Recommendation is also at Bates Numbers MCCCDS/Martinez03845-03852, attached
24 hereto as Exhibit 4].

25 33. The Hearing Committee then delivered to Glasper, its summary of
26 evidence, findings of fact, conclusions of law, and final recommendation. [Glasper
27 Depo. at 34:23-35:10 and Glasper Depo. Exhibit 4 (December 9, 2013 Letter from
28 Hearing Committee Counsel to Glasper), attached hereto as Exhibit 2].

34. On February 10, 2014, pursuant RFP § 3.15.8., Glasper sent a letter to the

1 President of the Governing Board indicating that he had accepted the recommendation
 2 of the Hearing Committee that Martinez not be dismissed. [Glasper Depo. at 35:25-
 3 36:14, 37:23-38:12 and Glasper Depo. Exhibit 6 (February 10, 2014 Letter from
 4 Glasper to Governing Board with attachments) at 1-2, attached hereto as Exhibit 2].

5 35. Glasper could have recommended to the Governing Board that they give
 6 Martinez some discipline less than a termination, such as a suspension. [Glasper Depo.
 7 at 34:4-9, attached hereto as Exhibit 2].

8 36. Dr. Glasper did not do so. [Glasper Depo. at 37:23-38:2, attached hereto
 9 as Exhibit 2].

10 37. Instead, the same day, Glasper sent a letter to Martinez stating that:

11 Based upon the [attached] written statement of charges, I have decided to
 12 suspend your employment under my sole authority as Chancellor pursuant
 13 to section 3.11 of the Residential Faculty Policies. The purpose of this
 14 letter [is] to notify you that your suspension from your position as
 15 Mathematics faculty at Phoenix College will begin on March 1, 2014 and
 16 end on May 15, 2015. Your teaching responsibilities and pay will resume
 17 Fall semester, 2015 unless you choose to retire (see below).

18 Having sought the advice of the General Counsel as required by Section
 19 3.11.3 of the RFP, I am satisfied that your procedural rights concerning
 20 the grounds for suspension have been met. The basis for this action is the
 21 unanimous finding of an independent hearing committee that you willfully
 22 violated the district policies set forth in the statement of charges and that I
 23 have the authority to suspend your employment without pay.

24 Also under the terms of subsection 3.11.3, the interim Vice Chancellor for
 25 Human Resources will offer to consult with you...concerning the
 26 rationale for this decision. If you accept his invitation, he will deliver this
 27 notice and attachment after the meeting. If you decline your opportunity
 28 to consult with him, he will have the decision delivered to you in
 29 accordance with the policy.

30 You may voluntarily retire from your position in lieu of this suspension
 31 without pay....

32 [Glasper Depo. at 35:25-36:14, 38:3-12 and Glasper Depo. Exhibit 6 (February 10, 2014
 33 Letter from Glasper to Governing Board with attachments) at page 3, attached hereto as

1 Exhibit 2; Castellanos Depo. at 26:12-24 and Castellanos Depo. Exhibit 6 (February 10,
 2 2014 Notice of Suspension without Pay and Statement of Charges) at page 1 of 11,
 3 attached hereto as Exhibit 3].

4 38. RFP § 3.11. was renumbered under the 2013-2014 RFP. Under the
 5 previous RFP, for 2012-2013, it was numbered as § 3.13. [Glasper Depo. at 36:16-37:1,
 6 attached hereto as Exhibit 2].

7 39. The suspension was later pushed back to April 14, 2014 due to scheduling
 8 conflicts for a meeting between Glasper, the Vice-chancellor of HR and Martinez.
 9 [Deposition of Dr. Cleopatria Martinez on October 11, 2016 (“Martinez Depo. Vol. II”)
 10 at 287:11-288:14, attached hereto as Exhibit 5].

11 40. This was the first time in Glasper’s nearly thirteen years as Chancellor
 12 that Glasper suspended a faculty member under 2013-2014 RFP § 3.11. or an equivalent
 13 section from previous RFPs. [Gasper Depo. at 43:19-21, Glasper Depo. Errata Sheet at
 14 43:21, attached hereto as Exhibit 2].

15 41. The only other *unpaid* suspension Glasper issued under this policy,
 16 pursuant to with faculty members are “normally paid”, occurred in February, 2016, the
 17 last month of Glasper’s employment with MCCCD, and after this lawsuit was filed.
 18 [Gasper Depo. at 43:19-21, Glasper Depo. Errata Sheet at 43:21; Castellanos Depo. at
 19 63:3-14 and Castellanos Depo. Exhibit 12 (Personnel Action Request) at page 1-2,
 20 attached hereto as Exhibit 3].

21 42. It was a three-day suspension that involved no loss of benefits. [Id.].

22 43. Along with the Notice of Suspension without Pay, Glasper provided
 23 Martinez with a Statement of Charges, also signed by Glasper, in which the allegations
 24 in the August 9, 2013 Statement of Charges are essentially repeated, but in which it is
 25 also written, in pertinent part, as follows:

26 Based upon the findings of the hearing committee which are attached to
 27 this statement, and the record of their proceeding, I have determined as
 28 follows:

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An additional concern arose after a student brought the copying to PC's attention, complaining you did not provide receipts for the material charges. MCCC Adminstrative Regulation 1.12 states as follows:

‘1.12.2 Authorization

Prior to participating in the sale of products or services, Revenue and Expenditure categories must be included in a program's budget, and approved by the Governing Board during the annual budget adoption process, or as legally changed the first year

1.12.3. Fees

Fees exchanged for products or services produced through an educational, training or service activity shall be pre-approved by the Governing Board.'

Phoenix College determined that your course materials charge was not included in the adopted budget or pre-approved by the Governing Board.

[Glasper Depo. at 35:25-38:12 and Glasper Depo. Exhibit 6 (February 10, 2014 Letter from Glasper to Governing Board with attachments) at pages 4-5, attached hereto as Exhibit 2; Castellanos Depo. at 26:12-24 and Castellanos Depo. Exhibit 6 (February 10, 2014 Notice of Suspension without Pay and Statement of Charges) at Page 2-3 of 11, attached hereto as Exhibit 3].

44. Neither this allegation nor the cited regulations were mentioned in the original Statement of Charges dated August 9, 2013. [Glasper Depo. at 10:10-11:9, 35:25-38:12, 47:23-48:23, Glasper's Errata Sheet at 43:21, and *Compare* Glasper Depo. Exhibit 3 (August 9, 2013 Notice of Dismissal and Statement of Charges) with Glasper Depo. Exhibit 6 (February 10, 2014 Letter from Glasper to Governing Board with attachments) at page 4-5, attached hereto as Exhibit 2; Castellanos Depo. at 41:7-10 attached hereto as Exhibit 3].

45. Instead, they appeared for the first time in the February 10, 2014 Statement of Charges. [Plaintiff's Verified Amended Complaint, ¶39; Defendants'

1 | Answer to Plaintiff's Verified Amended Complaint at ¶39].

2 46. As a result of her suspension, Martinez did not receive any salary or
3 benefits for sixteen months from April 15, 2014, to the beginning of the Fall semester in
4 August 2015. [Martinez Depo. Vol. II at 289:16-290:4, attached hereto as Exhibit 5].

5 47. The benefits lost to Martinez during that period included, among other
6 things, medical insurance, dental insurance, paid sick leave, personal leave, basic life
7 insurance, accidental death & personal loss insurance, mid-term disability insurance and
8 access to the employee assistance program. [Martinez Depo. Vol. II at 289:16-290:4,
9 attached hereto as Exhibit 5].

10 48. She also suffered emotional distress related to the lack of due process and
11 long-term suspension. [Martinez Depo. Vol. II at 164:8-19, attached hereto as Exhibit
12 5].

13 49. Glasper's dismissal recommendation had been followed by a vigorous
14 prosecution of the case Martinez before the Hearing Committee by MCCCD employees
15 and counsel who fought to support Glasper's dismissal recommendation. [November 18,
16 2013 Hearing Transcript at 12:3-25:9, 158:5-163:15, attached hereto as Exhibit 6].

17 Dated this 3rd day of March 2017.

ROBAINA & KRESIN PLLC

By /s/ Edmundo P. Robaina
Edmundo P. Robaina
Thomas T. Griffin
Ashley A. Marton

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of March 2017, I caused the foregoing document to be electronically transmitted to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF Registrants:

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By /s/ **Gaynell Carpenter**